

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CRAIG W. NEUSTATER, HENRY DOWDING
and PATRICK A. DOWSON

Appeal No. 97-4242
Application 08/451,281¹

ON BRIEF

Before COHEN, MEISTER and STAAB, Administrative Patent Judges.
COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claim 1. Claims 3 through 9, 11 through 17, 21 and 22, the only other claims remaining in the application, stand allowed.

¹Application for patent filed May 26, 1995.

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Appellants' invention pertains to a fall protection safety suit. An understanding of the invention can be derived from a reading of claim 1, a copy of which appears in the "APPENDIX" to the brief (Paper No. 15).

As evidence of anticipation, the examiner has applied the document specified below:

Hoagland et al	2,979,153	Apr.
11, 1961		
(Hoagland)		

The following rejection is before us for review.

Claim 1 stands rejected under 35 U.S.C. § 102(b) as being anticipated by Hoagland.

The full text of the examiner's rejection and response to the argument presented by appellants appears in the final rejection and answer (Paper Nos. 11 and 16), while the complete statement of appellants' argument can be found in the brief (Paper No. 15).

OPINION

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In reaching our conclusion on the anticipation issue raised in this appeal, this panel of the board has carefully considered

appellants' specification and claim 1, the applied patent,² and the respective viewpoints of appellants and the examiner. As a consequence of our review, we make the determination which follows.

We affirm the examiner's rejection of claim 1 under 35 U.S.C. § 102(b).

Anticipation under 35 U.S.C. 102(b) is established only when a single prior art reference discloses, either expressly or under principles of inherency, each and every element of a claimed invention. See In re Paulsen, 30 F.3d 1475, 1478-

² In our evaluation of the applied patent, we have considered all of the disclosure thereof for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

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1479, 31 USPQ2d 1671, 1675 (Fed. Cir. 1994), In re Spada, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990), and RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). However, the law of anticipation does not require that the reference teach specifically what an appellant

has disclosed and is claiming but only that the claims on appeal "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference. See Kalman v. Kimberly Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983); cert. denied, 465 U.S. 1026 (1984).

Claim 1 is drawn to a fall protection safety suit comprising, *inter alia*, a coverall and a strap assembly, with the strap assembly being configured for automatic adjustment from a first loose fitting position to a second fall-protect position about a wearer responsive to a fall-arresting force, and with the strap assembly in the second position being tight-fitting about the wearer and positioned to distribute

fall-arresting forces to shoulders, pelvis, thighs and vertically along the chest of the wearer.

Hoagland explicitly teaches (column 1, line 69 to column 2, line 2) a safety suit having a plurality of body embracing strap means cooperatively associated to effect a concurrent embracing support of a plurality of different body portions precluding injurious pressure from being applied to the body and assuring a

safe hoisting thereof. The safety suit or coverall garment of Hoagland includes means for guiding strap means into a tight, body embracing, annular configuration during a hoisting thereof.

More specifically, inside the garment, adjacent the juncture of arms and legs with the body portion thereof, is a plurality of annularly extending straps defining body embracing nooses (column 2, lines 31 through 34). During a hoisting of the body, the nooses are tightened to firmly embrace the body portions encircled thereby (column 2, lines 43 through 45).

The garment assures an automatic dispositioning of the straps during tightening thereof around the desired body portions (column 2, lines 49 through 51). The upper nooses 15, 16, for example, effect a firm embracing support of the person's upper torso over his shoulders and around his side below the armpits (column 4, line 74 through column 5, line 2). The noose 15 is urged about a portion of the person's torso rather than around his arm and, thus, the shoulder torso portion is firmly embraced whereby a safe, non-injurious support is obtained (column 3, lines 70 through 74). The garment configuration permits the body to extend generally longitudinally in alignment with the hoisting

line during hoisting operation (column 2, lines 67 through 69). Thus, if the body is being lifted from directly overhead, the body assumes a substantially vertical position with its arms and legs hanging freely (column 5, lines 11 through 13). The suit or garment is intended to overcome the problems of earlier structure which did not properly support the body but, rather, permitted injurious pressures to be applied to

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different body portions such as areas adjoining the crotch, neck, and shoulders (column 1, lines 41 through 51).

In light of the above-noted Hoagland disclosure, we find ourselves in accord with the examiner's understanding that the content of claim 1 is anticipated by the Hoagland teaching.

With the suit about a wearer, and with a suitable safety line attached thereto, it is apparent to us that the strap assembly in the safety suit of Hoagland would be quite capable of automatically adjusting to a fall-protect position should the wearer fall. Further, it is evident to us that in the second position, the strap assembly of Hoagland, that is specifically intended to effect firm embracing support of a person's upper

torso portion would, with a falling wearer, distribute fall-arresting forces to shoulders and vertically along the chest of the wearer. In light of the above, in particular, we conclude that the subject matter of claim 1 is anticipated by the Hoagland patent.

The argument of appellants (brief, pages 3 through 5) simply does not convince this panel of the board of error on the part of the examiner in rejecting claim 1 as being anticipated by the Hoagland document.

Like the examiner (answer, page 3), we recognize that the fall protection safety suit set forth in claim 1 does not address vertical free fall, as argued (brief, page 3). As we explained, *infra*, the Hoagland safety suit is clearly capable of fall protection. Appellant has not come forward with any evidence to the contrary. We view the argument (brief, page 4), that the Hoagland suit would not prevent injury to the wearer who falls from a certain height, as simply unsupported attorney argument. We note that claim 1 only broadly addresses fall protection. The circumstance that the patentee discusses protection from injuries

incident to hoisting, as focused upon in the brief (page 4), does not detract from our assessment of the safety suit of Hoagland as being capable of fall protection.

It is also appellants' view that Hoagland does not show or teach chest support (brief, pages 4 and 5). As should be apparent from our earlier discussion, we do not share this viewpoint. Once again, we refer to the breadth of claim 1, particularly with respect to the recitation of the strap assembly being "positioned to distribute fall-arresting forces" to shoulders and vertically along the chest of the wearer. As we see it, the document fairly informs a reader thereof that firm embracing support is provided to the upper torso portion of a person (the arms hanging freely). This indicates to us that, in the above noted circumstance when a safety line is attached and a wearer falls, the strap assembly of Hoagland is positioned about the wearer so as to be capable of distributing fall-arresting forces vertically along the chest (part of the upper torso portion) of the wearer, as now broadly claimed. Once again, we point out that appellants have not come forward with any evidence to the contrary.

In summary, this panel of the board has affirmed the rejection of claim 1 under 35 U.S.C. § 102(b).

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The decision of the examiner is affirmed.

No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

AFFIRMED

IRWIN CHARLES COHEN)	
Administrative Patent Judge))
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)	
)	BOARD OF PATENT
JAMES M. MEISTER)	
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
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